

AMENDED IN SENATE JUNE 24, 2013

AMENDED IN SENATE JUNE 10, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1168

Introduced by Assembly Member Pan

February 22, 2013

An act to amend Sections 119300, 119301, 119303, 119306, 119307, 119308, 119309, 119310, 119312, 119313, 119314, 119315, 119317, 119318, 119319, 119323, and 119325 of, to add Article 4.5 (commencing with Section 119316) to Chapter 7 of Part 15 of Division 104 of, and to repeal Section 119316 of, the Health and Safety Code, relating to body art.

LEGISLATIVE COUNSEL’S DIGEST

AB 1168, as amended, Pan. Safe body art.

Existing law, the Safe Body Art Act, regulates the performance of body art, as defined, and the permitting of body art facilities. Existing law defines “body art facility” as the specified building, section of a building, or vehicle in which a practitioner performs body art. Under existing law, performing body art without being registered, operating a body art facility without a health permit, or operating a temporary body art event without a permit is a misdemeanor.

This bill would add to the definition of “body art facility” places where body art is demonstrated for the purpose of instruction. The bill would also prohibit the performance of body art at a place other than a permanent or temporary body art facility. This bill would also make it a misdemeanor to perform body art at an unpermitted location. By

creating a new crime, this bill would impose a state-mandated local program.

Existing law requires, prior to the performance of body art, a client to read, complete, and sign a questionnaire, which is considered confidential information, *and an informed consent document containing specified information, including a statement regarding the permanent nature of body art*. Existing law requires the body art facility to maintain the confidentiality of the information in the questionnaire and to shred the confidential medical information after 2 years.

This bill, ~~instead~~, would require any information gathered in the questionnaire that is personal medical information and that is subject to the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) or similar state laws to be maintained or disposed of in compliance with those provisions. *The bill would also require the informed consent document to include a notice that tattoo inks, dyes, and pigments have not been approved by the federal Food and Drug Administration and that the health consequences of using these products are unknown.*

Existing law requires a first-time registrant as a body art practitioner to provide documentation evidencing 6 months of related experience.

This bill would remove this provision.

Existing law establishes requirements for a body art facility to be granted a health permit and prohibits a facility from operating as a body art facility without that permit. A facility operating without a permit or other required licenses may be shut down by the local authority. Existing law specifies the requirements for a permitted body art facility, including floors, walls, and ceilings that are smooth, free of open holes, and washable.

This bill would authorize a county to suspend or revoke the health permit of a body art facility if a person who does not possess a valid practitioner registration is allowed to perform body art. The bill would require a body art facility to notify the local enforcement agency within 30 days of the resignation, termination, or hiring of a body art practitioner. The bill would also make specified changes to the requirements for a body art facility, including that the floors and walls must be nonabsorbent, that the facility provide adequate toilet facilities, as specified, and that removal of sharps waste, as defined, be done in a specified manner.

Existing law requires the sponsor of a temporary body art demonstration booth to ensure the availability of support facilities and

supplies for body art practitioners and vendors, including providing an eye wash station.

This bill would remove the requirement of an eye wash station at a temporary body art demonstration booth. The bill would require that the demonstration booth include at least 50 square feet for each practitioner and hand washing facilities, and would prohibit food and tobacco products in the demonstration booth. The bill would require the sponsor to submit a temporary facility permit application to the local enforcement authority within 30 days of the event, would prohibit a sponsor from allowing a person to perform body art at the event if the person does not have a valid body art practitioner registration, and would require the sponsor to ensure the availability of various facilities and supplies, including trash pickup, wastewater removal, and required forms and documents.

Existing law requires a health permit for a practitioner who will be performing body art in a vehicle in a jurisdiction for more than 7 days in a 90-day period.

This bill would instead prescribe requirements for mobile body art facilities, including that specified provisions of the Safe Body Art Act be met, that the mobile facility have certain amenities, and that all body art procedures be completed inside the mobile body art facility.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 119300 of the Health and Safety Code
- 2 is amended to read:
- 3 119300. (a) This chapter shall be known, and may be cited,
- 4 as the Safe Body Art Act.
- 5 (b) The purpose of this chapter is to provide minimum statewide
- 6 standards for the regulation of persons engaged in the business or
- 7 performance of tattooing, body piercing, branding, and the
- 8 application of permanent cosmetics in California. These
- 9 requirements are intended to protect both the practitioner and the

1 client from transmission of infectious diseases through the
2 application of proper body art procedures and the control of
3 cross-contamination of instruments and supplies.

4 SEC. 2. Section 119301 of the Health and Safety Code is
5 amended to read:

6 119301. For purposes of this chapter, the following definitions
7 shall apply:

8 (a) "Antiseptic solution" means a liquid or semiliquid substance
9 that is approved by the federal Food and Drug Administration to
10 reduce the number of microorganisms present on the skin and on
11 mucosal surfaces.

12 (b) "Bloodborne pathogen" means a disease-causing
13 microorganism that, when present in the blood, can be transmitted
14 to humans, including, but not limited to, hepatitis B virus (HBV),
15 hepatitis C virus (HCV), and human immunodeficiency virus
16 (HIV).

17 (c) "Body art" means body piercing, tattooing, branding, or
18 application of permanent cosmetics.

19 (d) "Body art facility" means the specified building, section of
20 a building, or vehicle in which a practitioner performs, or
21 demonstrates for the purpose of instruction, body art, including
22 reception areas, the procedure area, and the decontamination and
23 sterilization area. "Body art facility" does not include a facility
24 that only pierces the ear with a disposable, single-use, presterilized
25 clasp and stud or solid needle that is applied using a mechanical
26 device to force the needle or stud through the ear.

27 (e) "Body piercing" means the creation of an opening in a human
28 body for the purpose of inserting jewelry or other decoration.
29 "Body piercing" includes, but is not limited to, the piercing of an
30 ear, including the tragus, lip, tongue, nose, or eyebrow. "Body
31 piercing" does not include the piercing of an ear, except for the
32 tragus, with a disposable, single-use, presterilized stud and clasp
33 or solid needle that is applied using a mechanical device to force
34 the needle or stud through the ear.

35 (f) "Branding" means the process in which a mark or marks are
36 burned into human skin tissue with a hot iron or other instrument,
37 with the intention of leaving a permanent scar.

38 (g) "Client" means an individual upon whom a practitioner
39 performs body art.

1 (h) “Decontamination and sterilization area” means a room, or
2 specific section of a room, that is set apart and used only to
3 decontaminate and sterilize instruments.

4 (i) “Department” means the State Department of Public Health.

5 (j) “Decontamination” means the use of physical or chemical
6 means to remove, inactivate, or destroy bloodborne pathogens on
7 a surface or item to the point where the pathogens are no longer
8 capable of transmitting infectious particles and the surface or item
9 is rendered safe for handling, use, or disposal.

10 (k) “Disinfectant” means a product that is registered by the
11 federal Environmental Protection Agency and the Department of
12 Pesticide Regulation, as indicated on the label, to reduce or
13 eliminate the presence of disease-causing microorganisms,
14 including human immunodeficiency virus (HIV) and hepatitis B
15 virus (HBV) for use in decontaminating work surfaces.

16 (l) “Enforcement officer” means all local health officers,
17 directors of environmental health, and duly authorized registered
18 environmental health specialists and environmental health specialist
19 trainees.

20 (m) “Hand hygiene” means either of the following:

21 (1) Thoroughly washing all surfaces of the hands and under the
22 fingernails with soap and warm water.

23 (2) In the absence of contamination with blood or other bodily
24 fluids, or obvious soiling, applying an antiseptic solution to all the
25 surfaces of the hands and underneath the fingernails.

26 (n) “Instrument” means a nonmedical application device used
27 in performing body art, including, but not limited to, needles,
28 needle bars, needle tubes, forceps, hemostats, tweezers, razors, or
29 razor blades.

30 (o) “Local enforcement agency” means the local health agency
31 of the county, city, or city and county. In jurisdictions where the
32 local health agency and the environmental health agency are
33 separate departments, the jurisdiction shall specify which entity
34 will be the local enforcement agency for purposes of this chapter.

35 (p) “Mucosal surface” means the moisture-secreting membrane
36 lining of all body cavities or passages that communicates with the
37 exterior, including, but not limited to, the nose, mouth, vagina,
38 and urethra.

39 (q) “Owner” means either of the following:

(1) The person or persons whose name or names appear on the health permit, business license, property deed, or rental agreement of the body art facility.

(2) A person, acting as a principal of a corporation or partnership, who employs practitioners to perform body art or other activity regulated by this chapter.

(r) “Permanent cosmetics” means the application of pigments in human skin tissue for the purpose of permanently changing the color or other appearance of the skin. This includes, but is not limited to, permanent eyeliner, eyebrow, or lip color.

(s) “Potable water” means water that complies with the standards for transient noncommunity water systems pursuant to the California Safe Drinking Water Act (Chapter 4 (commencing with Section 116275) of Part 12).

(t) “Practitioner” means a person who performs body art on a client.

(u) “Procedure area” means a room, or designated portion of a room, that is set apart and only used to perform body art.

(v) “Procedure site” means the area or location on the human body selected for the placement of body art.

(w) “Sharps waste” means a device or instrument that has acute, rigid corners, edges, or protuberances capable of cutting or piercing the skin, that has been used in the performance of body art, and has not been disinfected or sterilized following use, including, but not limited to, any of the following:

(1) Tattooing needles and needle bars.

(2) Disposable piercing needles.

(3) Disposable razors.

(x) “Sharps waste container” means a rigid, puncture resistant, commercial container that, when sealed, is leak resistant and cannot be reopened without great difficulty. Sharps containers shall be designed and constructed specifically for the proper containment of sharps waste.

(y) “Sponsor” means an individual or business entity, including an event coordinator or manager, responsible for the organization of a convention, trade show, or other temporary event that includes a body art demonstration booth. A sponsor may also be a body art practitioner.

(z) “Sterilization” means the complete destruction of all microbial life forms, including spores.

1 (aa) “Tattooing” means the insertion of pigment in human skin
2 tissue by piercing with a needle.

3 (ab) “Vehicle” means a vehicle that has been fitted or designed
4 to perform body art.

5 (ac) “Warm water” means water that is supplied through a
6 mixing valve or combination faucet at a temperature of at least
7 100 degrees Fahrenheit.

8 (ad) “Workstation” means the area within a procedure area
9 where a practitioner performs body art. The workstation includes,
10 but is not limited to, the client chair or table, counter, mayo stand,
11 instrument tray, storage drawer, and practitioner’s chair.

12 SEC. 3. Section 119303 of the Health and Safety Code is
13 amended to read:

14 119303. (a) Prior to the performance of body art, the client
15 shall read, complete, and sign an informed consent form that shall
16 include, but not be limited to, all of the following information:

17 (1) A description of the procedure.

18 (2) A description of what the client should expect following the
19 procedure, including suggested care and any medical complications
20 that may occur as a result of the procedure.

21 (3) A statement regarding the permanent nature of body art.

22 (4) *Notice that tattoo inks, dyes, and pigments have not been*
23 *approved by the federal Food and Drug Administration and that*
24 *the health consequences of using these products are unknown.*

25 ~~(4)~~

26 (5) Postprocedure instructions that include all of the following:

27 (A) Information on the care of the procedure site.

28 (B) Restrictions on physical activities such as bathing,
29 recreational water activities, gardening, or contact with animals,
30 and the duration of the restrictions.

31 (C) Signs and symptoms of infection, including, but not limited
32 to, redness, swelling, tenderness of the procedure site, red streaks
33 going from the procedure site towards the heart, elevated body
34 temperature, or purulent drainage from the procedure site.

35 (D) Signs and symptoms that indicate the need to seek medical
36 care.

37 (b) Prior to the performance of body art, the client shall receive,
38 complete, and sign a questionnaire that includes all of the following
39 information:

40 (1) Whether the client may be pregnant.

(2) Whether the client has a history of herpes infection at the proposed procedure site, diabetes, allergic reactions to latex or antibiotics, hemophilia or other bleeding disorder, or cardiac valve disease.

(3) Whether the client has a history of medication use or is currently using medication, including being prescribed antibiotics prior to dental or surgical procedures.

(4) Other risk factors for bloodborne pathogen exposure.

(c) All information gathered from the client that is personal medical information and that is subject to the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) or similar state laws shall be maintained or disposed of in compliance with those provisions.

SEC. 4. Section 119306 of the Health and Safety Code is amended to read:

119306. (a) A person shall not perform body art at any location other than a permitted permanent or temporary body art facility.

(b) A person shall not perform body art if he or she is not registered with the local enforcement agency.

(c) As a condition of registration, the applicant shall provide all of the following:

(1) Evidence of current hepatitis B vaccination, including applicable boosters, unless the practitioner can demonstrate hepatitis B immunity or has complied with current federal OSHA hepatitis B vaccination declination requirements.

(2) Evidence of completion of OSHA Bloodborne Pathogen Training consistent with Section 119307 and pursuant to paragraph (2) of subdivision (g) of Section 5193 of Title 8 of the California Code of Regulations or its successor.

(3) Proof that he or she is 18 years of age or older.

(4) Self-certification of, knowledge of, and commitment to meet state law and relevant local regulations pertaining to body art safety.

(5) His or her business address and the address at which he or she will perform any activity regulated by this chapter.

(6) Payment of a registration fee directly to the local enforcement agency. The local enforcement agency shall set the fee at an amount not to exceed the amount necessary but that is sufficient to cover the actual costs of administering the program.

1 (d) A practitioner shall display, in a place readily visible to the
2 public at the body art facility where the practitioner is performing
3 body art, the certificate confirming registration with the local
4 enforcement agency in the jurisdiction in which that practice is
5 conducted.

6 (e) A valid and current registration issued by a local enforcement
7 agency shall be valid in any other jurisdiction for no more than
8 five consecutive days, or 15 days total, in any one calendar year.

9 (f) Practitioner registration shall be renewed annually by a
10 process to be determined by the local enforcement agency.

11 (g) A practitioner shall obtain all necessary permits to conduct
12 business, including, but not limited to, being registered with the
13 local enforcement agency. In addition to the penalties available
14 pursuant to Article 6 (commencing with Section 119320), a
15 practitioner who violates this subdivision shall be subject to
16 suspension and a penalty not to exceed three times the cost of
17 registration.

18 SEC. 5. Section 119307 of the Health and Safety Code is
19 amended to read:

20 119307. (a) Prior to registering with the local enforcement
21 agency, a practitioner shall complete a Bloodborne Pathogens
22 Exposure Control Training program that is specific to his or her
23 practice.

24 (b) An owner shall provide Bloodborne Pathogens Exposure
25 Control Training pursuant to the requirements of paragraph (2) of
26 subdivision (g) of Section 5193 of Title 8 of the California Code
27 of Regulations, or its successor, for all employees, practitioners,
28 and volunteers who perform duties within the decontamination
29 and sterilization area or procedure area.

30 (c) The Bloodborne Pathogens Exposure Control Training shall
31 meet all of the following criteria:

32 (1) Training shall be conducted by a person or persons who are
33 knowledgeable in exposure control and infection prevention in the
34 body art setting and who are approved by the local enforcement
35 agency in accordance with the provisions of this section.

36 (2) Training and training materials shall be specific to
37 performing body art.

38 (3) Training shall consist of not less than two hours of
39 instruction that includes all of the following:

1 (A) A copy and explanation of the Division of Occupational
2 Safety and Health, Bloodborne Pathogens Standard, contained in
3 Section 5193 of Title 8 of the California Code of Regulations, or
4 its successor.

5 (B) A copy and explanation of applicable county, city, or city
6 and county ordinances that pertain to bloodborne pathogen
7 transmission control in body art.

8 (C) Discussion of transmission, control, and symptoms of the
9 diseases caused by bloodborne pathogens.

10 (D) Discussion of tasks involved in performing body art and
11 how those tasks may lead to exposure to bloodborne pathogens
12 for the client or practitioner.

13 (E) Discussion of the types and uses of personal protective
14 equipment, such as disposable gloves, including an explanation
15 of the limitations of the equipment.

16 (F) Discussion of the types of tasks, proper task technique, and
17 order of tasks before and after putting on and removing personal
18 protective equipment, to avoid contamination.

19 (G) Discussion of the importance of hand hygiene and a
20 demonstration of proper hand hygiene techniques.

21 (H) Discussion of choice, use, and storage of disinfectants and
22 antiseptics.

23 (I) Information on the signage required for biohazard materials
24 and the importance of properly labeling chemicals and supplies.

25 (J) Information on hepatitis B vaccine, including safety and
26 accessibility.

27 (K) Discussion of what constitutes a bloodborne pathogen
28 exposure incident, including all of the following:

29 (i) Examples of bloodborne pathogen exposure, how the
30 exposure occurred, and what actions to take to prevent or minimize
31 future exposures.

32 (ii) Risk of infection following a bloodborne pathogen exposure
33 incident.

34 (iii) Procedures to be followed after an exposure incident,
35 including medical followup.

36 (L) Opportunities for interactive questions and answers with
37 the instructor.

38 (d) Each person required to complete a Bloodborne Pathogens
39 Exposure Control Training program pursuant to this section shall
40 annually complete a minimum of two hours of Bloodborne

1 Pathogens Exposure Control Training update presented by a trainer
2 eligible pursuant to paragraph (1) of subdivision (c).

3 (e) Records of training required pursuant to this section shall
4 be maintained for three years and shall be available for inspection
5 upon request of the enforcement officer.

6 SEC. 6. Section 119308 of the Health and Safety Code is
7 amended to read:

8 119308. (a) Before performing body art, the practitioner shall
9 do all of the following:

10 (1) Wash and dry his or her hands consistent with sound
11 hygienic practices.

12 (2) Put on a clean apron, bib, or lap pad over clean, dry clothing.

13 (3) Put on personal protective equipment that is appropriate for
14 the task.

15 (4) Don clean, previously unused, disposable examination gloves
16 on both hands just prior to the procedure. Gloves shall be worn
17 throughout the procedure. If gloves come into contact with an
18 object or surface other than the client's prepared skin or material
19 to be used for the procedure, or if a glove is torn or punctured,
20 both gloves shall be removed, hand hygiene performed, and new,
21 clean, previously unused, disposable examination gloves shall be
22 donned. If gloves are removed for any reason during a procedure,
23 hand hygiene shall be performed prior to donning new, clean,
24 previously unused, disposable examination gloves.

25 (5) If the skin at the procedure site is to be shaved, the skin shall
26 be first washed with soap and water. A single-use, disposable razor
27 shall be used to shave the procedure site and then discarded into
28 a sharps container.

29 (6) Immediately prior to performing the body art, the client's
30 skin shall be prepared with an antiseptic solution, antimicrobial,
31 or microbicide, according to manufacturer's instructions. The item
32 used for application shall be discarded after use.

33 (b) At the completion of the procedure, the practitioner shall do
34 all of the following:

35 (1) Answer questions regarding the procedure site.

36 (2) Provide postprocedure instructions.

37 (3) When covering a procedure site, use a sterile dressing.

38 (4) Place all used or discarded sharps waste in a sharps waste
39 container.

1 (5) Wash and disinfect reusable instruments as provided in
2 subdivisions (d) and (e) of Section 119309.

3 (6) Package and sterilize reusable instruments that may have
4 come in contact with nonintact skin or mucosal surfaces.

5 (7) Clean and decontaminate the workstation and procedure
6 area.

7 SEC. 7. Section 119309 of the Health and Safety Code is
8 amended to read:

9 119309. (a) The practitioner shall maintain a clean and sanitary
10 environment.

11 (b) All solid surfaces and objects in the procedure area and the
12 decontamination and sterilization area that have come into contact
13 with the client or the materials used in performing the body art,
14 including, but not limited to, chairs, armrests, tables, countertops,
15 and trays, shall be immediately cleaned and decontaminated after
16 each use by application of a disinfectant, used according to
17 manufacturer's directions.

18 (c) The surfaces and objects in the procedure area shall be
19 disinfected again before use if the area has been used for any
20 activity following its previous disinfection.

21 (d) The practitioner shall wear disposable gloves on both hands
22 when touching, decontaminating, or handling a surface, object,
23 instrument, or jewelry that is soiled or that is potentially soiled
24 with human blood.

25 (e) An instrument or other reusable item that comes into contact
26 with nonintact skin or mucosal surfaces shall either be single use
27 or be cleaned, decontaminated, packaged, and sterilized after each
28 procedure. Sterilization shall be accomplished pursuant to the
29 procedures established in Section 119315 by steam autoclave.

30 (f) An instrument or reusable item that does not come into
31 contact with nonintact skin or mucosal surfaces shall be washed
32 with a solution of soap and water, using a brush that is small
33 enough to clean the interior surfaces, and decontaminated after
34 each procedure.

35 (g) A reusable item that cannot be immediately washed,
36 disinfected, and sterilized following completion of the body art
37 procedure shall be placed in a basin of water with or without
38 detergent.

39 (h) Sterile instrument packs shall be evaluated before use, and
40 if the integrity of a pack is compromised in any way, including,

1 but not limited to, being torn, punctured, wet, or having evidence
2 of potential moisture contamination, the instrument pack shall be
3 discarded or reprocessed before use.

4 (i) No food, drink, tobacco product, or personal effects are
5 permitted in the procedure area. The practitioner shall not eat,
6 drink, or smoke while performing a procedure. If a client requests
7 to eat, drink, or smoke, the procedure shall be stopped and the
8 procedure site shall be protected from possible contamination while
9 the client leaves the procedure area to eat, drink, or smoke.

10 (j) Branding shall not be done with another client in the
11 procedure area. During the procedure, the practitioner and the
12 client shall wear appropriate protective face filter masks.

13 SEC. 8. Section 119310 of the Health and Safety Code is
14 amended to read:

15 119310. (a) Jewelry placed in newly pierced skin shall be
16 sterilized prior to piercing as specified in Section 119315 or shall
17 be purchased presterilized. Sterile jewelry packs shall be evaluated
18 before use and, if the integrity of a pack is compromised, including,
19 but not limited to, being torn, wet, or punctured, the pack shall be
20 discarded or reprocessed before use.

21 (b) Only jewelry made of ASTM F138, ISO 5832-1, and AISI
22 316L or AISI 316LVM implant grade stainless steel, solid 14-karat
23 through 18-karat yellow or white gold, niobium, ASTM F 136
24 6A4V titanium, platinum, or other materials found to be equally
25 biocompatible shall be placed in newly pierced skin.

26 (c) Ear piercing equipment with a disposable, single-use,
27 presterilized stud and clasp may be used only for piercing the ear
28 pursuant to Article 7 (commencing with Section 119325).

29 (d) If measuring the body piercing site is necessary, clean
30 calipers shall be used and the skin marked using clean toothpicks
31 and ink or a single-use marking pen.

32 SEC. 9. Section 119312 of the Health and Safety Code is
33 amended to read:

34 119312. (a) A body art facility shall not conduct business
35 without a valid health permit.

36 (b) No body art facility shall allow a practitioner who does not
37 possess a valid practitioner registration to perform body art
38 procedures at the facility.

39 (c) An owner of a body art facility shall notify the local
40 enforcement agency in writing within 30 days of the resignation,

1 termination, or new hire of a body art practitioner at the body art
2 facility.

3 (d) The application for a health permit for a body art facility
4 shall include all of the following:

5 (1) A copy of the facility's infection prevention control plan,
6 as required by Section 119313.

7 (2) A fee, as set by the local enforcement agency at an amount
8 not to exceed the amount necessary but that is sufficient to cover
9 the actual costs of administration of the program. Fees established
10 by this section shall be used exclusively in support of activities
11 pursuant to this chapter.

12 (e) The local enforcement agency shall issue a health permit
13 after an investigation has determined that the proposed body art
14 facility and its method of operation meets the specifications of the
15 approved plans or conforms to the requirements of this article.

16 (f) A health permit is valid only for the location of the facility
17 and the time period indicated on the permit and may not be
18 transferred to another owner or facility.

19 (g) The health permit shall be posted in a conspicuous place at
20 the body art facility. Certificates of registration for all practitioners
21 performing body art in that facility shall also be prominently
22 displayed either near the health permit or at the individual
23 practitioner's procedure area if each practitioner has a designated
24 area.

25 (h) A person proposing to construct a practice site or mobile
26 practice site, other than a temporary body art event booth, shall
27 submit plans to the Plan Review Unit of the local enforcement
28 agency. The plans shall be approved in advance of the issuance of
29 a building, plumbing, or electrical permit. All required corrections
30 must be made and the body art facility approved to open before
31 body art can be performed in the facility.

32 (i) Health permits shall be renewed annually through a process
33 to be determined by the local enforcement agency.

34 (j) The county may suspend or revoke the permit of a body art
35 facility if a person who does not possess a valid practitioner
36 registration is allowed to perform body art.

37 (k) An owner who operates a body art facility shall obtain all
38 necessary permits to conduct business, including, but not limited
39 to, a permit issued by a local enforcement agency. In addition to
40 the penalties available pursuant to Article 6 (commencing with

1 Section 119320), an owner who violates this subdivision shall be
2 subject to the closure of the facility and a penalty not to exceed
3 three times the cost of the permit.

4 SEC. 10. Section 119313 of the Health and Safety Code is
5 amended to read:

6 119313. (a) A body art facility shall maintain and follow a
7 written Infection Prevention and Control Plan, provided by the
8 owner or established by the practitioners, specifying the procedures
9 to achieve compliance with each applicable requirement of this
10 chapter.

11 (b) The Infection Prevention and Control Plan shall include all
12 of the following:

13 (1) Procedures for cleaning and decontaminating environmental
14 surfaces.

15 (2) Procedures for cleaning, decontaminating, packaging,
16 sterilizing, and storing reusable instruments.

17 (3) Procedures for protecting clean instruments and sterile
18 instrument packs from exposure to dust and moisture during
19 storage.

20 (4) A setup and teardown procedure for any form of body art
21 performed at the body art facility.

22 (5) Techniques to prevent the contamination of instruments or
23 the procedure site during the performance of body art.

24 (6) Procedures for safe handling and disposal of sharps waste.

25 (c) The Infection Prevention and Control Plan shall be revised
26 when changes are made in infection prevention practices,
27 procedures, or tasks.

28 (d) Onsite training on the facility's Infection Prevention and
29 Control Plan shall take place when tasks where occupational
30 exposure may occur are initially assigned, any time there are
31 changes in the procedures or tasks, and when new technology is
32 adopted for use in the facility, but not less than once each year.

33 (e) Records of training required pursuant to this section shall
34 be maintained for three years and shall be available for inspection
35 upon request of the enforcement officer.

36 SEC. 11. Section 119314 of the Health and Safety Code is
37 amended to read:

38 119314. (a) With the exception of a temporary demonstration
39 booth, as specified in Sections 119317 and 119318, a body art
40 facility shall comply with all of the following:

- 1 (1) Have floors, walls, and ceilings.
- 2 (2) Have floors and walls that are smooth, nonabsorbent, free
- 3 of open holes, and washable.
- 4 (3) Be free of insect and rodent infestation.
- 5 (4) Be separate from any residential areas used for sleeping,
- 6 bathing, or meal preparation. A body art facility associated with
- 7 a residential dwelling shall have a separate entrance and toilet
- 8 facility, and shall not have a door allowing direct access between
- 9 the body art facility and the residential dwelling.
- 10 (5) Have adequate toilet facilities, in accordance with the
- 11 specifications of the State Building Standards Code, local building
- 12 standard codes, and any other local ordinance. The sink shall be
- 13 supplied with hot and cold running water, containerized liquid
- 14 soap, and single-use paper towels that are dispensed from a
- 15 wall-mounted, touchless dispenser.
- 16 (b) Procedure areas in a body art facility shall meet all of the
- 17 following standards:
- 18 (1) Be equipped with a light source that provides adequate light
- 19 at the procedure area.
- 20 (2) Be separated, by a wall or ceiling-to-floor partition, from
- 21 nail and hair activities.
- 22 (3) Be separated from all business not related to body art, at the
- 23 discretion of the local enforcement agency.
- 24 (4) Be equipped with a sink supplied with hot and cold running
- 25 water, containerized liquid soap, and single-use paper towels that
- 26 are dispensed from a wall-mounted, touchless dispenser that is
- 27 accessible to the practitioner.
- 28 (5) All sinks shall be permanently plumbed and meet local
- 29 building and plumbing codes. Facilities that were issued a permit
- 30 prior to January 1, 2014, shall have until July 1, 2014, to comply
- 31 with this section.
- 32 (6) All counter surfaces and service trays shall have a smooth,
- 33 durable, and nonabsorbent finish.
- 34 (c) Decontamination and sterilization areas within a body art
- 35 facility shall meet all of the following requirements:
- 36 (1) Be separated from procedure areas by a space of at least five
- 37 feet or by a cleanable barrier.
- 38 (2) Be equipped with a sink, hot and cold running water,
- 39 containerized liquid soap, and single-use paper towels dispensed

1 from a wall-mounted, touchless dispenser that is readily accessible
2 to the practitioner.

3 (d) Each procedure area shall have lined waste containers.

4 (e) Each procedure area shall have a sharps waste container that
5 meets the following requirements:

6 (1) The sharps waste container shall be portable, if portability
7 is necessary to ensure that the sharps waste container is within
8 arm's reach of the practitioner.

9 (2) The sharps waste container shall be labeled with the words
10 "sharps waste" or with the international biohazard symbol and the
11 word "BIOHAZARD."

12 (3) All sharps waste produced during the process of tattooing,
13 body piercing, or the application of permanent cosmetics shall be
14 disposed by either of the following methods:

15 (A) Removal and disposal by a licensed waste hauler. Materials
16 shall be disposed of at a licensed treatment facility or removed
17 and transported through a mail-back system authorized by the State
18 Department of Public Health.

19 (B) As solid waste, after being disinfected by a method approved
20 by the department pursuant to paragraph (3) of subdivision (a) of
21 Section 118215.

22 (4) Documentation of proper disposal of sharps waste shall be
23 maintained for three years and shall be available for inspection at
24 the request of the enforcement officer.

25 (f) No animals shall be allowed in the procedure area or the
26 decontamination and sterilization area except service animals, as
27 defined by the federal Americans with Disabilities Act.

28 SEC. 12. Section 119315 of the Health and Safety Code is
29 amended to read:

30 119315. A body art facility shall conform to the following
31 sterilization procedures:

32 (a) Clean instruments to be sterilized shall first be sealed in
33 sterilization packaging that contain either a sterilizer indicator or
34 process indicator, unless instruments are being processed for
35 immediate use. The outside of the pack shall be labeled with the
36 name of the instrument if not immediately identifiable, the date
37 sterilized, and the initials of the person operating the sterilizing
38 equipment unless instruments are being sterilized for immediate
39 use.

(b) Sterilizers shall be loaded, operated, decontaminated, and maintained according to manufacturer's directions, and shall meet all of the following standards:

(1) Only equipment manufactured for the sterilization of medical instruments shall be used.

(2) Sterilization equipment shall be tested using a commercial biological indicator monitoring system after the initial installation, after any major repair, and at least once per month. The expiration date of the monitor shall be checked prior to each use.

(3) Each sterilization load shall be monitored with mechanical indicators for time, temperature, and pressure. Each sterilization load shall include, at a minimum, a Class V integrator.

(4) Biological indicator monitoring test results shall be recorded in a log that shall be kept on site for three years after the date of the results.

(5) A written log of each sterilization cycle shall be maintained for three years, shall be available for inspection by the enforcement officer, and shall include all of the following information:

(A) The date of the load.

(B) A list of the contents of the load.

(C) The exposure time and temperature.

(D) The results of the Class V integrator.

(E) For cycles where the results of the biological indicator monitoring test are positive, how the items were cleaned, and proof of a negative test before reuse.

(c) Clean instruments and sterilized instrument packs shall be placed in clean, dry, labeled containers, or stored in a labeled cabinet that is protected from dust and moisture.

(d) Sterilized instruments shall be stored in the intact sterilization packaging or in the sterilization equipment cartridge until time of use.

(e) Sterile instrument packs shall be evaluated at the time of storage and before use. If the integrity of a pack is compromised, including, but not limited to, cases where the pack is torn, punctured, wet, or displaying any evidence of moisture contamination, the pack shall be discarded or reprocessed before use.

(f) A body art facility that does not afford access to a decontamination and sterilization area that meets the standards of subdivision (c) of Section 119314 or that does not have sterilization

1 equipment shall use only purchased disposable, single-use,
2 presterilized instruments. In place of the requirements for
3 maintaining sterilization records, the following records shall be
4 kept and maintained for a minimum of 90 days following the use
5 of the instruments at the site of practice for the purpose of verifying
6 the use of disposable, single-use, presterilized instruments:

7 (1) A record of purchase and use of all single-use instruments.

8 (2) A log of all procedures, including the names of the
9 practitioner and client and the date of the procedure.

10 (3) Written proof on company or laboratory letterhead showing
11 that the presterilized instruments have undergone a sterilization
12 process. Written proof shall clearly identify the instruments
13 sterilized by name or item number and shall identify the lot or
14 batch number of the sterilizer run.

15 SEC. 13. Section 119316 of the Health and Safety Code is
16 repealed.

17 SEC. 14. Article 4.5 (commencing with Section 119316) is
18 added to Chapter 7 of Part 15 of Division 104 of the Health and
19 Safety Code, to read:

20
21 Article 4.5. Mobile Body Art Facilities
22

23 119316. (a) A mobile body art facility shall meet all the
24 applicable requirements in Article 1 (commencing with Section
25 119300) to Article 4 (commencing with Section 119312), inclusive
26 and Article 6 (commencing with Section 119319), unless
27 specifically exempted by this article.

28 (b) A mobile body art facility that is either a special purpose
29 commercial modular and coach, as defined by Section 18012.5,
30 or a commercial modular coach, as defined by Section 18001.8,
31 shall be certified by the Department of Housing and Community
32 Development, consistent with Chapter 4 (commencing with Section
33 18025) of Part 2 of Division 13, and regulations promulgated
34 pursuant to that chapter.

35 (c) The Department of Motor Vehicles occupational licensing
36 requirements, Division 5 (commencing with Section 11100) of the
37 Vehicle Code, shall also apply to these mobile body art facilities.

38 (d) The local enforcement agency shall approve all equipment
39 installation prior to operation.

1 119316.1. A mobile body art facility shall have all of the
2 following:

3 (a) A fixed hand wash sink in the procedure area for the
4 exclusive use of the practitioner that meets all of the following
5 requirements:

6 (1) Availability of containerized liquid soap and single-use
7 paper towels that are dispensed from a wall-mounted, touchless
8 dispenser.

9 (2) A pressurized supply of at least five gallons of potable water.

10 (3) Warm water.

11 (4) The sink measures at least nine inches wide, nine inches
12 long, and five inches deep.

13 (b) All counter surfaces and service trays shall have a smooth,
14 durable, and nonabsorbent finish.

15 (c) A waste water tank that shall be sized to be a minimum of
16 1.5 times the size of the potable water tank.

17 119316.2. (a) All body art procedures shall be completed inside
18 the mobile body art facility.

19 (b) The mobile body art facility's doors and windows shall
20 remain closed during procedures.

21 (c) Notwithstanding subdivision (b), a mobile body art facility
22 may keep doors or windows open during a procedure only if the
23 openings are covered by a screen constructed to cover the entirety
24 of the opening that is the equivalent of a 16 mesh per square inch
25 screen or better.

26 119316.3. A mobile body art facility shall use only purchased
27 disposable, single-use, presterilized instruments.

28 119316.4. A mobile body art facility shall only be operated
29 within 200 feet of an accessible restroom.

30 119316.5. A mobile body art facility shall be used exclusively
31 for performing body art and shall not be used as a living space or
32 residence.

33 SEC. 15. Section 119317 of the Health and Safety Code is
34 amended to read:

35 119317. A practitioner may, in the local jurisdiction of
36 registration, practice in a temporary demonstration booth for no
37 more than seven days in a 90-day period. The demonstration booth
38 shall meet all of the following requirements:

1 (a) Be located within a building that has hand washing facilities
2 with hot and cold running water, soap, and single-use paper towels
3 to which practitioners have direct access.

4 (b) Constructed with a partition of at least three feet in height
5 separating the procedure area from the public.

6 (c) Have floor space of at least 50 square feet for each
7 practitioner.

8 (d) Be free of insect or rodent infestation.

9 (e) Used exclusively for performing body art.

10 (f) Equipped with adequate light available at the level where
11 the practitioner is performing body art.

12 (g) (1) For temporary body art events consisting of one
13 demonstration booth, the booth shall be equipped with hand
14 washing equipment that, at a minimum, consists of containerized
15 liquid soap, single-use paper towels, a five-gallon or larger
16 container of potable water accessible via spigot, and a wastewater
17 collection and holding tank of corresponding size. Potable water
18 shall be refilled and the holding tank evacuated frequently to
19 provide uninterrupted use, or as determined by the local
20 enforcement agency.

21 (2) For temporary body art events consisting of two or more
22 demonstration booths, practitioner hand wash areas shall be
23 provided throughout the event. The hand wash areas shall be
24 located within a booth with partitions at least three feet in height
25 separating the hand wash area from the public. The area shall be
26 equipped with a commercial, self-contained hand wash station that
27 consists of containerized liquid soap, single-use paper towels, a
28 storage capacity of five gallons or more of potable water, and a
29 trash receptacle. The sponsor shall provide one hand wash area
30 for every two demonstration booths at the event.

31 (h) Have smooth, cleanable flooring.

32 (i) No food, drink, or tobacco products are permitted in the
33 demonstration booth.

34 (j) Not allow animals within the confines of the demonstration
35 booth.

36 (k) Be operating with all necessary permits to conduct business.
37 In addition to the penalties available pursuant to Article 6
38 (commencing with Section 119320), a sponsor or practitioner who
39 violates this subdivision shall be subject to closure of the temporary

1 body art event or a penalty not to exceed three times the cost of
2 the permit or both closure and the penalty.

3 SEC. 16. Section 119318 of the Health and Safety Code is
4 amended to read:

5 119318. (a) The sponsor of a temporary body art event shall
6 obtain all necessary permits to conduct business in the jurisdiction
7 where the event will be held. The sponsor shall submit a complete
8 temporary facility permit application to the local enforcement
9 agency a minimum of 30 days prior to the date of the scheduled
10 event. A local enforcement agency may establish a fee not to
11 exceed the amount necessary, but that is sufficient to cover, the
12 actual costs of the administration of this section. In addition to the
13 penalties available pursuant to Article 6 (commencing with Section
14 119320), a sponsor who violates this subdivision shall be subject
15 to closure of the temporary body art event and a penalty not to
16 exceed three times the cost of the permit.

17 (b) The sponsor shall not allow a person to perform body art
18 procedures at the event unless the person has a valid body art
19 practitioner registration.

20 (c) The sponsor of a temporary body art event shall be
21 responsible for ensuring the availability of support facilities and
22 supplies for practitioners and vendors, including, but not limited
23 to:

24 (1) A demonstration booth that meets the requirements of
25 subdivisions (a) to (k), inclusive, of Section 119317.

26 (2) Restrooms that have flush toilets supplied with toilet paper,
27 and hand wash sinks supplied with hot and cold potable running
28 water, soap, and single-use paper towels to which practitioners
29 have direct access.

30 (3) Sharps waste containers for each demonstration booth.

31 (4) The use of a licensed medical waste disposal company for
32 removal of all sharps waste containers used during the body art
33 event.

34 (5) Frequent trash pickup from demonstration booths.

35 (6) Wastewater removal and potable water recharge for hand
36 wash areas at a frequency that will provide uninterrupted use, or
37 as determined by the local enforcement agency.

38 (7) When applicable, decontamination and sterilization area that
39 is separated from a procedure area by at least five feet or by a
40 cleanable barrier.

(8) Adequate backup supplies that have been stored in compliance with subdivision (d) of Section 119315 and that can be purchased by practitioners, including, but not limited to:

- (A) Presterilized tattoo needles.
- (B) Presterilized needle tubes.
- (C) Presterilized piercing instruments, including, but not limited to, needles, receiving tubes, corks, marking tools, and forceps.
- (D) Plastic bags, barrier film, clip cord covers, and plastic wrap.
- (E) Ink cups.
- (F) Nitrile and latex gloves.
- (G) Single-use tubes of water-based and petroleum-based lubricants.
- (H) Absorbent dressing materials.

(I) All forms and documents required to perform body art, including, but not limited to, client consent forms, medical history forms, aftercare instructions, and single-use instrument logs.

(d) The name, telephone number, and directions to an emergency room near the temporary body art event shall be posted in a conspicuous location.

(e) Each practitioner working in a booth at a temporary body art event shall display his or her certificate of registration, or keep the certificate in a folder that is available for inspection upon request of the enforcement officer or a client.

SEC. 17. Section 119319 of the Health and Safety Code is amended to read:

119319. (a) An enforcement officer may enter a body art facility during the facility's hours of operation and other reasonable times to do any of the following:

- (1) Conduct inspections, issue citations, and secure samples, photographs, or other evidence from a body art facility, or any facility suspected of being a body art facility.
- (2) Check the Infection Prevention and Control Plan, required pursuant to Section 119313, to determine if persons working in the facility are following the plan, and to determine if the plan is in compliance with this chapter.
- (3) Secure as evidence documents, or copies of documents, including the Infection Prevention and Control Plan, or any record, file, paper, process, invoice, or receipt for the purpose of determining compliance with this chapter.

1 (b) A written report shall be made and a copy shall be supplied
2 or mailed to the owner or practitioner at the completion of an
3 inspection or investigation.

4 (c) Based upon inspection findings or other evidence, an
5 enforcement officer may impound instruments that are found to
6 be unsafe to use, used in an unapproved manner, or used in an
7 unapproved location. Within 30 days, the local enforcement agency
8 that has impounded the equipment shall commence proceedings
9 to release the instrument or to seek administrative or legal remedy
10 for its disposal.

11 (d) It is a violation of this chapter for the owner or a person
12 working in a body art facility to do any of the following:

13 (1) Conceal records or evidence, or to withhold evidence.

14 (2) Interfere with the performance of the duties of an
15 enforcement officer.

16 (3) Make a false statement, representation, certification, record,
17 report, or otherwise falsify information required to be submitted
18 or maintained pursuant to this chapter.

19 SEC. 18. Section 119323 of the Health and Safety Code is
20 amended to read:

21 119323. Performing body art without being registered,
22 performing body art at an unpermitted location, operating a body
23 art facility without a health permit, or operating a temporary body
24 art event without a permit shall be a misdemeanor. The local
25 enforcement agency may also assess an administrative penalty in
26 an amount not less than twenty-five dollars (\$25) and not more
27 than one thousand dollars (\$1,000) for violation of any provision
28 of this chapter. All fines are to be retained by the local enforcement
29 agency for enforcement of the provisions of this chapter.

30 SEC. 19. Section 119325 of the Health and Safety Code is
31 amended to read:

32 119325. (a) The piercing of the ear with a mechanical stud
33 and clasp device does not constitute body art or body piercing as
34 defined in this chapter. It is the intent of the Legislature, in enacting
35 this article, to provide uniform and statewide requirements for the
36 performance of ear piercing with a mechanical stud and clasp
37 device. The piercing of an ear with a mechanical stud and clasp
38 device shall only be subject to the requirements in this article.

39 (b) The area within a facility where mechanical stud and clasp
40 ear piercing is conducted shall be safe and sanitary and shall not

1 constitute a threat to the public health and safety, as reasonably
2 determined by the local enforcement agency.

3 (c) The mechanical stud and clasp device that is used to pierce
4 an ear pursuant to this article shall be single-use, presterilized, stud
5 and clasp only.

6 (d) The single-use mechanical stud and clasp device used to
7 pierce an ear pursuant to this article shall meet the jewelry
8 requirements in subdivision (e).

9 (e) Only jewelry made of ASTM F138, ISO 5832-1, and AISI
10 316L or AISI 316LVM implant grade stainless steel, solid 14-karat
11 through 18-karat yellow or white gold, niobium, ASTM F 136
12 6A4V titanium, platinum, or other materials found to be equally
13 biocompatible shall be placed in newly pierced skin.

14 SEC. 20. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.